



**International Convention on
the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9
OF THE CONVENTION

Fourteenth report of States parties due in 1999

Addendum

Mauritius*

[22 March 1999]

* This document contains the thirteenth and fourteenth periodic reports of Mauritius, submitted in one document, due on 29 June 1997 and 1999, respectively. For the eighth, ninth, tenth, eleventh and twelfth reports of Mauritius, submitted in one document, and the summary records of the meetings at which the Committee considered that report, see documents CERD/C/280/Add.2 and CERD/C/SR.1173-1174.

The information submitted by Mauritius in accordance with the consolidated guidelines for the initial part of the reports of States parties is contained in the basic document HRI/CORE/1/Add.60/Rev.1.

Introduction

1. The report constitutes the thirteenth and fourteenth periodic reports submitted under article 9 of the Convention and is drafted in the light of the general guidelines regarding the form and content of reports to be submitted by States parties adopted by the Committee on the Elimination of Racial Discrimination.

I. GENERAL

2. General information on the land and people was given in the last periodic reports. No breakdown of the population according to race or ethnic origin is available.

3. There has been no significant change in the general political structure since the presentation of the last periodic reports in August 1996.

4. As far as the general legal framework within which human rights are protected in Mauritius is concerned, it is worth noting the setting up of a National Human Rights Commission by an Act of Parliament in 1998. A copy of the Protection of Human Rights Act 1998 is annexed.* The Act came into force in February 1999.

5. The setting up of the National Human Rights Commission ("the Commission") is aimed at the better protection of human rights and the better investigation of complaints against members of the police force. The Commission will be chaired by a former judge and the other three members will be:

(a) A former judge or a barrister of more than 10 years' standing; and

(b) Two other persons having knowledge of, or practical experience in, matters relating to human rights.

6. The Commission may exercise such functions as it considers conducive to the promotion and protection of human rights and, in particular:

(a) Inquire into any written complaint from any person alleging that any of his human rights has been, is being or is likely to be violated by the act or omission of any person acting in the performance of a public function, or by the act or omission of a member of the police force;

(b) Inquire of its own motion where it has reason to believe that such an act or omission has occurred, is occurring or is likely to occur;

(c) Visit any police station, prison or other place of detention under the control of the State to study the living conditions of the inmates and the treatment afforded to them;

* Available for consultation in the files of the secretariat.

(d) Review the safeguards provided by or under any enactment for the protection of human rights;

(e) Review the factors or difficulties that inhibit the enjoyment of human rights.

These functions may be exercised without prejudice to the jurisdiction of the courts or the powers conferred on the Director of Public Prosecutions or the appropriate Service Commission.

7. The Commission is to attempt, in the first place, to resolve any complaint, or matter which is the subject matter of an inquiry, by a conciliatory procedure. Where it has not been possible to resolve the matter through conciliation, the Commission shall, on completion of the inquiry:

(a) Send a written report, setting out its conclusion and any recommendation with regard to the grant of any relief to the complainant, to the Minister responsible for human rights who shall, as soon as practicable, report to the Commission the action taken or proposed to be taken;

(b) Where the inquiry discloses a violation of human rights, or negligence in the presentation of such violation, refer the matter to the Director of Public Prosecutions, the appropriate Service Commission or the chief executive officer of the appropriate public body, for prosecution or disciplinary action.

8. A Presidential Commission was also set up in 1997 to report on changes that may be necessary:

(a) To safeguard the independence and impartiality of the judiciary;

(b) To secure the just, humane, prompt, efficient and economical disposal of the business of the courts;

(c) To ensure the ready access of the people of Mauritius to the courts for the determination of their rights and the remedying of their grievances;

(d) To ensure that the courts are as well equipped as possible to adapt to changing social needs;

(e) To regulate the relationship between the legal service and the judicial service;

(f) To enable the legal profession to achieve the highest standards.

9. The Presidential Commission was chaired by Lord Mackay of Clashfern, a former Lord Chancellor of the United Kingdom, and consisted of other experienced and respected members of the legal profession, of a distinguished French academic and of a member of the private sector.

10. The report of the Commission was made public in August 1998 and contained a number of recommendations, some of which will entail far-reaching reforms and will require further consideration. The Administration of Justice (Miscellaneous Provisions) Bill was introduced in the National Assembly in December 1998 and will lead to the implementation of those recommendations of the report which do not necessitate profound change to the system.

11. The last reports made reference to the judgement delivered by the Supreme Court of Mauritius in the case of *Pointu v. Minister of Education* (1995) SCR No. 53810 which illustrated the willingness of our domestic courts to decide an issue involving fundamental rights in harmony with international human rights instruments. This judgement has since been reviewed by the Judicial Committee of the Privy Council in 1997. The Judicial Committee quotes with approval an extract of a 1984 judgement delivered by Acting Chief Justice Rajsoomer Lallah (as he then was), which emphasizes that constitutions must be read within their own particular context and framework and that "one should be very cautious in importing wholesale into the structure and framework of our Constitution a complete article of the kind that Article 14 of the Indian Constitution or the 14th amendment of the American Constitution" is. The Judicial Committee goes on to state that international conventions such as the International Covenant on Civil and Political Rights are a proper part of the background against which section 3 (of our Constitution) must be construed, and that it is the legal and political system as a whole and not merely the human rights entrenched in the Constitution which must comply with the Covenant, so that it is wrong to assume that a State party can comply with the Covenant only by enacting its principles as part of its constitutional law.

II. INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Articles 2 and 4

12. There has been no new legislative measure giving effect to articles 2 and 4. No case has been entered before the Supreme Court or subordinate courts between 1996 and March 1999 for breach of our statutory provisions prohibiting racial discrimination.

13. The President of the Republic of Mauritius has taken the initiative of spearheading a number of measures aimed at promoting racial harmony within the island.

14. In 1996, he selected 10 persons of different ethnic origins and religious faiths to form a think-tank ("Commission de réflexion"), the terms of reference of which are:

(a) To review periodically the social situation and advise on action to be taken;

(b) To promote harmony and tolerance amongst the different cultural, ethnic and age groups;

(c) To reflect on the challenges facing Mauritian society and to submit proposals to meet these challenges, in particular from a religious/spiritual point of view;

(d) To be proactive and foresee future problems.

15. The think-tank has met on several occasions and convened the press to impart their views and highlight selected extracts of different sacred Scriptures which they believed to be of particular relevance.

16. In 1997, the President also set up the "Committee on Poverty" ("Comité sur la pauvreté"), of which the aim is to make severe poverty disappear by the year 2007 and to reduce poverty in general. Three pilot projects were set up in three different regions of the island each of which is inhabited by people of different ethnic origins. In March 1999, the President launched the "Presidential Education Trust" which will help sponsor the raising and education of 100 children from poor regions, from the age of 3 up to the age of 18.

17. The Cassam Uteem Foundation for Children (which bears the name of the President) was also set up in 1998 to provide assistance in the field of education and health to needy children, and to promote the welfare of children generally.

18. In February 1999, riots broke out following the death of a popular singer (of African origin and commonly referred to as "Creole") in a police cell. For the first two days, the riots appeared to be directed at the authorities in general and the police authorities in particular, and were concentrated in areas where poverty was rampant. The situation then degenerated and trouble flared up between "Creole" groups and groups of Indian origin. The situation was brought under control after the President, the Prime Minister and the Leader of the Opposition, as well as dignitaries of various religious faiths, made earnest appeals on television for the situation to return to normal.

19. A Commission of Inquiry has been set up to look, inter alia, into the cause of the riots. Representatives of the Catholic Church and of Hindu priests have publicly expressed their wish to defuse any latent tension between those two sections of the population by having a constructive dialogue. The President is organizing a march on 21 March 1999 which is to end at his residence, the State House, designed to reaffirm the unity between the various components of the population.

20. The Prime Minister has publicly announced that an Equal Opportunities Act will be passed in the near future to ensure that all Mauritian citizens are given the same opportunities and, inter alia, to prevent any inequality based on race, religion or ethnic origin.

21. The Republic of Mauritius notes that the Committee expressed concern, at paragraph 16 of document CERD/C/304/Add.19, at the fact that Mauritian legislation does "not prohibit organizations and organized propaganda activities which promote racial discrimination, as provided for in

article 4 (b) of the Convention"; the Committee further recommended, at paragraph 20 of the same document, that legislative measures be taken to implement article 4 (b) of the Convention.

22. No law has been enacted in Mauritius to implement article 4 (b) of the Convention because it is already possible under our criminal law to prosecute organizations and also organized and all other propaganda activities which promote and incite racial discrimination. While section 282 of the Criminal Code provides for the offence of "stirring up racial hatred" (the adoption of which was "noted with appreciation" at paragraph 10 of document CERD/C/304/Add.19), section 109 of the Criminal Code (Supplementary) Act makes it an offence for any person to agree with one or more persons to commit an act which is "unlawful, wrongful or harmful to other person". It is therefore possible under existing provisions of the criminal law to prosecute members of an organization which promotes racial discrimination under section 282 of the Criminal Code, together with section 109 of the Criminal Code (Supplementary) Act.

Articles 5 and 6

23. None of the rights mentioned at paragraphs (a), (b), (c) and (d) of article 5, which are guaranteed by our Constitution, has been amended.

24. Section 16 of the Constitution has not been amended since the presentation of the last reports, when the Committee noted with concern that that section does not apply to "laws with respect to marriage, adoption, divorce, succession or other matters regarding private law" and recommended that the prohibition, in section 16, of discriminatory legislation be "extended to all matters of private law" (see paragraphs 15 and 19 of document CERD/C/304/Add.19).

25. Although section 16 (1) of the Constitution states the general rule that "... no law shall make any provision that is discriminatory either of itself or in its effect", this rule has to be read subject to the express exceptions in section 16 (4), paragraph (c) of which provides that section 16 (1) shall not apply to any law so far as that law makes provision "for the application, in the case of persons of any such description as is mentioned in subsection (3) (...), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters, that is the personal law applicable to persons of that description" (emphasis added).

26. Although the Republic of Mauritius has taken note of the recommendation of the Committee with regard to section 16 of the Constitution, it has not been possible to remove subsection (4) (c) of that section because of the sensitive nature of the "Muslim Personal Law" issue in our multi-religious society. About 20 per cent of the Mauritian population consists of Muslims, most of whom are in favour of a Muslim Personal Law. Government has, therefore, in September 1998, set up a committee of eminent lawyers to make recommendations as to the way in which provisions of the Muslim Personal Law relating to marriage, divorce and the devolution of property may be introduced into Mauritian law. The committee will, in particular, be looking into the compatibility of the Muslim Personal Law with the obligations of Mauritius under major human rights instruments.

Economic, social and cultural rights

The right to work and the right to form and join trade unions

27. Section 13 of the Constitution protects the right to form and become a member of a trade union. This is reinforced by further provisions of the Industrial Relations Act.

28. The growth of the Mauritian economy together with the demographic trends resulted in a tight labour market. Thus, foreign workers have been recruited to meet the labour shortage in the construction sector and the export processing zone. However, this situation is temporary since the country has now embarked on more technology-oriented industrialization.

29. The table below indicates the number of foreign workers employed in Mauritius between 1995 and 1997:

Industry	1995	1996	1997
Agriculture and fishing	100	-	1
Manufacturing	6 145	6 115	7 051
Electricity	-	-	1
Construction	2 400	1 400	950
Hotels and restaurants	400	200	210
Transport and communication	400	200	103
Financing and business services	150	200	201
Community and social services	200	100	100
Total	9 795	8 215	8 617

30. The number of female workers amounted to 4,903 as opposed to 3,714 male workers in 1997.

31. The number of unemployed persons was 29,800 (13,100 males and 16,700 females) at mid-1997, an increase of 3,000 over the 1996 figure. The unemployment rate was 5.5 per cent in 1996 and 6 per cent in 1997.

32. The following table provides a breakdown of the labour force by group and sex, 1995-1997:

Years	(thousands)					
	Male			Female		
	1995	1996	1997	1995	1996	1997
Mauritian labour force	321.7	326.0	331.7	153.3	158.6	164.5
Foreign labour force	5.6	4.2	4.0	4.2	4.0	5.3
Total	327.3	330.2	335.7	157.5	162.6	169.8

33. Industrial relations are still marked by dialogue and consultation among trade unions, employers' organizations and Government. Wage earners are entitled to various types of protection under many Acts such as the Labour Act, the Industrial Relations Act, the Occupational Safety, Health and Welfare Act, the Export Processing Zones Act and the Workmen's Compensation Act.

34. The Permanent Arbitration Tribunal (PAT) and the Industrial Court deal with industrial disputes. Other institutions such as the Industrial Relations Commissions and the National Remuneration Board (NRB) promote good industrial relations and review wages in certain sectors.

35. The Occupational Safety, Health and Welfare Act of 1988, enacted to promote a safe and healthy working environment, has contributed to a large decline in the number of industrial accidents. From 10,234 industrial accidents in 1991, the figure declined to 5,645 in 1996.

Right to housing

36. Housing surveys are carried out every 10 years and the next one is due to start in 2000. The 1990 figures showed that there were 223,821 housing units in Mauritius and it is clear that this figure has greatly increased in recent years.

37. The number of homeless people is difficult to estimate but certain figures point to around 200. The Ministry of Social Security together with the Abbé Pierre Foundation work to provide shelters and meals to the homeless.

38. The National Housing Development Company Ltd. (NHDC), set up in 1992, has built 5,918 housing units. These units are meant for low-income groups whose income is between Rs 3,000 and Rs 6,000 per month; 704 housing units have been built for middle-income groups.

Right to health and social security

39. Medical care provided by the State is free of charge for citizens of Mauritius. In addition, there are more than 20 private clinics. Health centres are also numerous on the island.

40. Section 94 of the Constitution, the National Pensions Act and the Statutory Bodies Pensions Act provide for a pension to all wage earners whether in the public or the private sector.

41. The Training and Employment and Disabled Persons Act was enacted in 1996 to prevent discrimination against disabled persons. It is now an offence for an employer to discriminate against any disabled person in relation to advertisement of and recruitment for employment, and the determination or allocation of wages, salaries, pensions and other matters relating to employment. Moreover, the Act provides that all employers having more than 35 employees must have 3 per cent of their work force constituted of disabled persons.

Right to education and training

42. The Constitution and the Education Act provide for compulsory general education for all children. It is an offence under the Education Act for a parent to refuse or neglect, without reasonable cause, to cause his child to attend school regularly. State education up to university level is free. Recent years have been marked by the emergence of private schools (primary and secondary) which charge monthly fees.

43. The number of primary schools totalled 283 in 1997 for a school population of 127,109: 221 schools were administered by the Government, 51 by the Roman Catholic Education Authority, 2 by the Hindu Education Authority and the remaining 9 were private unaided schools. Admission to primary schools is based on a catchment-area system whilst admission to secondary schools is based on performance at the Certificate of Primary Education (CPE) examination.

44. In 1997 there were 130 secondary schools in Mauritius for 93,839 students: 29 schools were administered by the Government and 101 were confessional or private (aided or unaided).

45. Enrolment in secondary schools in 1997 totalled 93,839 (45,706 males and 48,133 females). Secondary school enrolment shows an upward trend of 1 per cent as compared with the 1996 figures.

46. The Industrial and Vocational Training Board (IVTB), set up in 1988 to promote the training or apprenticeship of persons to be employed in technical and vocational fields, has been quite successful. In 1997, it was running 17 centres with 1,211 full-time students and 2,355 part-time students. In 1997, 20 basic secondary schools and 2 private unaided schools offered technical and vocational education to pupils not attending the general secondary schools. These schools enrolled 873 boys and 318 girls.

Right to participate in cultural activities

47. Chapter II of the Constitution guarantees the exercise of this right.

48. Mauritian society is pluricultural and plurilingual.

49. The Government gives extended support to all cultural forms of expressions to ensure unity and cohesion in society. In this context four cultural centres have already been established, namely the Indira Gandhi Cultural Centre, the Chinese Cultural Centre, the Islamic Cultural Centre and the African Cultural Centre. In this context, the foundation stone for the Nelson Mandela Centre for African Culture was laid in October 1998.

50. A National Drama Festival has been held every year for decades. The Festival covers 10 languages, namely English, French, Hindi, Bhojpuri, Tamil, Telegu, Marathi, Mandarin, Urdu and Creole.

51. Seven Asian languages are offered to pupils in primary school. These languages are Hindi, Tamil, Telegu, Marathi, Mandarin, Urdu and Arabic. The primary school pupils studying any one of these languages numbered 81,695 or 60 per cent of the total enrolment in 1997.

Right of access to any place or service intended for use by the general public

52. All Mauritian citizens and all foreigners residing in or visiting Mauritius enjoy all services intended for the public on an equal footing.

Article 7

53. Under the Constitution no person is compelled to receive religious instruction against his will when he attends a place of education. Furthermore, the Constitution protects the right to disseminate religious instruction in the course of education and no religious, social, ethnic or cultural association is prevented from establishing and maintaining school at its own expense.

Culture

54. The Constitution provides for the protection of the freedom of assembly and association. The State encourages activities of cultural associations. The Ministry of Arts and Culture organizes various cultural events every year. Thus, in the context of the celebration marking the four hundredth anniversary of the Dutch landing in Mauritius, a Dutch Section of the Naval and Historical Museum was opened in September 1998.

55. Similarly the "Journée Internationale Créole 98" was celebrated with two four-day activities in October 1998.

56. The Fund for the Promotion of Arts and Culture exists since 1986 and is engaged in promoting the various components of Mauritian arts and culture. Amongst the various activities of the Fund was the exhibition on Indian immigration held in November 1998. The Fund has also contributed financially to the printing of a book entitled Stepping Stone of Immigrants - Aapravasi Ghat: The Site and Its History.

Articles 8 and 14

57. The Republic of Mauritius has taken note of the recommendation by the Committee that it ratify the amendments to article 8, paragraph 6, of the Convention and make the declaration under article 14 of the Convention. Both matters are being looked into closely.
